

REMARKS

A telephone conference between the Examiner and Dennis Smid (one of the applicants' undersigned attorneys) was held on July 14, 2004. The applicants and Mr. Smid wish to thank the Examiner for his time and consideration for such interview.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103 or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Claims 2, 9, and 20 have been canceled. Claims 1, 3-8, 10-19, and 21-29, and new claims 30-39 are in the application.

The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(4) because reference character "26" has been used to designate both the display on a television set (in Figures 1 and 3) and "other audio/visual devices" (in Figure 1). The drawings have been amended herein so as to correct this matter.

The abstract of disclosure was objected to because it substantially exceeds the permitted length. The abstract of the disclosure has been amended herein to correct this matter.

The disclosure was objected to because of the following informalities: “26” is used to refer to both the display on a TV set (page 5, line 15; page 12, line 18; page 13, line 11; and page 15, line 13) and “other audio/visual devices” (page 5, line 16). The disclosure has been amended herein so as to correct these matters.

Claims 1, 2, 3, 5, and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin (U.S. Patent No. 5,870,155) in view of Nemirofsky (5,880,769). Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin and Nemirofsky as applied to claim 2, and further in view of Borowsky (“A Long and Winding Road”) and official notice. Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatnetable over Erlin and Nemirofsky as applied to claim 2, and further in view of official notice. Claims 8, 9, 10, 12, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentble over Erlin (U.S. Patent No. 5,870,155) in view of Nemirofsky (5,880,769). Claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin and Nemirofsky as applied to claim 9, and further in view of Borowsky (“A Long and Winding Road”) and official notice. Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatnetable over Erlin and Nemirofsky as applied to claim 9, and further in view of official notice. Claims 15, 16, and 18 were rejected under 35 U.S.C. 103(a) as being unpatentble over Erlin (U.S. Patent No. 5,870,155) in view of Nemirofsky (5,880,769) and Matthews, III et al. (U.S. Patent No. 6,025,837). Claim 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin, Nemirofsky, and Matthews as applied to claim 2, and further in view of Borowsky (“A Long and Winding Road”) and official notice. Claims 19, 20, 21, 23, and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin (U.S. Patent No. 5,870,155) in view of Nemirofsky (5,880,769). Claim 22 was rejected under 35 U.S.C. 103(a) as

being unpatentable over Erlin and Nemirofsky as applied to claim 20, and further in view of Borowsky and official notice. Claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin and Nemirofsky as applied to claim 20, and further in view of official notice. Claims 26, 27, and 29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin (U.S. Patent No. 5,870,155) in view of Nemirofsky (U.S. Patent No. 5,880,769) and Matthews (U.S. Patent No. 6,025,837). Claim 28 was rejected under 35 U.S.C. 103(a) as being unpatentable over Erlin, Nemirofsky, and Matthews as applied to claim 26, and further in view of Borowsky and official notice.

Amended independent claim 1 now recites in part as follows:

“means for comparing some of the read information to other information which is not obtained from the card; and
means for processing the read information in a predetermined manner and outputting the same for supply to an external destination so as to enable payment for a desired item when the compared read information matches the other information and for not processing the read information in the predetermined manner and outputting the same for supply to the external destination when the compared read information does not match the other information.”

It is respectfully submitted that the references as applied by the Examiner do not specifically disclose the above features of claim 1. Accordingly, it is believed that claim 1 is distinguishable from the applied combination of references. This matter was discussed with the Examiner during the July 14th telephone conference. For similar reasons, it is also believed that independent claims 8, 15, 19, and 26 are distinguishable from the applied combination of references.

Claims 3-7, 10-14, 16-18, 21-25, and 27-39 depend from one of the independent claims and, as such, are distinguishable from the combinations of references applied to the independent claims. The Examiner does not appear to have relied on the other references pertaining to the dependent claims to overcome the above mentioned deficiencies. Accordingly, it is believed that dependent claims 3-7, 10-14, 16-18, 21-25, and 27-39 are distinguishable from the applied combination of references.

In the event, that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where, in the reference or references, there is the basis for a contrary view.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to
Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant(s)

By 

Dennis M. Smid
Reg. No. 34,930
(212) 588-0800